

Statement from Egale Canada on the Saskatchewan government's use of the notwithstanding clause

October 20, 2023

Today, the Legislative Assembly of Saskatchewan passed Bill 137 (the so-called "Parental Bill of Rights") into law. The new law forces gender diverse youth under the age of 16 to either remain closeted at school or to accept being outed to their parents if they ask to be referred to by their name and pronouns at school. It forces school staff to misgender gender diverse youth whose parents have not agreed to allow school staff to use the youth's correct name and pronouns.

The legislation uses the "notwithstanding clause" of the *Canadian Charter of Rights and Freedoms* to prevent it from being ruled unconstitutional by a court on the basis that it violates children's *Charter* rights to life, liberty, security of the person, and equality. This is a dark day in Canadian history. We will remember this as the first time that an elected government has acted to proactively limit the rights of children and young people as well as the first time that an elected government has done so with respect to 2SLGBTQI people.

In granting an interlocutory injunction sought by UR Pride, represented by counsel from Egale and from McCarthy Tetrault LLP, against the Ministry of Education policy that preceded this legislation, Justice Megaw of the Court of King's Bench for Saskatchewan concluded that the policy – now enacted into legislation – would cause gender diverse youth to suffer "irreparable harm." The government's response was to recall the Legislative Assembly before schedule – a measure usually reserved for emergency situations – to force through legislation that inflicts precisely that irreparable harm. They did so without consulting teachers, legal experts, unions, and above all parents and students and they did so with explicit disregard for children's rights. Anyone who is concerned about civil liberties in Saskatchewan and across Canada should be horrified by this precedent.